

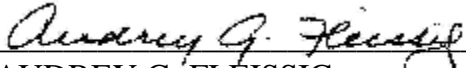
BILL WILLIAMS,)
)
 Plaintiff,)
)
 vs.) No. 4:05CV02370 AGF
)
 JIM TRENNY CHEVROLET, et al.,)
)
 Defendants.)

This matter is before the Court on Defendants’ motion to dismiss the complaint due to Plaintiff’s failure to obtain service within 120 days of filing his complaint. Shortly before the time for service had expired, Plaintiff sought an extension of 30 days to obtain service, asserting that he had “not yet received a Waiver of Service from Defendants.” The Court granted Plaintiff’s motion for a 30-day extension, and service has been obtained within that time limit. Defendants’ counsel attest that they never received a request for waiver of service, and Defendants argue that Plaintiff should not have been granted the extension of time to serve because he failed to show excusable neglect or a good faith effort to serve them in a timely fashion.

Upon review of the file, the Court concludes that, even accepting Defendants' factual assertions as true, this action should not be dismissed for improper service.

IT IS HEREBY ORDERED that Defendants' motion to dismiss this case for Plaintiff's failure to obtain service within 120 days of filing his complaint is **DENIED**.

[Doc. #9]



AUDREY G. FLEISSIG
UNITED STATES MAGISTRATE JUDGE

Dated this 25th day of May, 2006.